

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CERRONE FURMAN,	:	CIVIL ACTION
Petitioner,	:	
	:	
v.	:	NO. 11-4342
	:	
DEBRA K. SAUERS, THE DISTRICT	:	
ATTORNEY OF THE COUNTY OF	:	
PHILADELPHIA, and THE ATTORNEY	:	
GENERAL OF THE STATE OF	:	
PENNSYLVANIA,	:	
Respondents.	:	

ORDER

AND NOW, this 29th day of August, 2012, upon consideration of the Report and Recommendation of United States Magistrate Judge Arnold Rapoport (Document No. 19, filed April 19, 2012), Petitioner's Objections to Report and Recommendation [sic] (Document No. 23, filed May 8, 2012), Respondents' Response to Petitioner's Objections to Report and Recommendation (Document No. 24, filed May 8, 2012), and Respondents' Supplemental Response to Petitioner's Objections to the Magistrate Judge's Report and Recommendation (Document No. 26, filed August 17, 2012), for the reasons set forth in the Memorandum dated August 29, 2012, **IT IS ORDERED** as follows:

1. The Report and Recommendation of United States Magistrate Judge Arnold Rapoport dated April 19, 2012, is **APPROVED** and **ADOPTED IN PART** and **REJECTED IN PART** as follows:

a. That part of the Report and Recommendation of United States Magistrate Judge Arnold Rapoport dated April 19, 2012, relating to whether the order of the Court of Common Pleas of Philadelphia County dated February 13, 2009,¹ granting petitioner leave to file a nunc pro tunc appeal of the denial of petitioner's petition for relief pursuant to the Pennsylvania Post-Conviction Relief Act ("PCRA") tolled the time limit for filing a federal habeas corpus petition pursuant to 28 U.S.C.

¹ As set forth in this Court's Memorandum dated August 29, 2012, the Pennsylvania Superior Court later vacated the February 13, 2009, order.

§ 2244(d), is **APPROVED** and **ADOPTED**;

b. That part of the Report and Recommendation of United States Magistrate Judge Arnold Rapoport dated April 19, 2012, relating to whether petitioner is entitled to equitable tolling, is **REJECTED**.

2. Petitioner's Objections to Report and Recommendation [sic] are **SUSTAINED IN PART** and **OVERRULED IN PART** as follows:

a. Petitioner's objection relating to whether he is entitled to equitable tolling is **SUSTAINED**;

b. Petitioner's objection relating to whether the PCRA court's grant of leave to file a nunc pro tunc appeal tolled the time limit for filing a federal habeas corpus petition pursuant to 28 U.S.C. § 2244(d), is **OVERRULED**.

3. Petitioner's Petition Under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody is **REMANDED** to United States Magistrate Judge Arnold for submission of a supplemental report and recommendation containing an analysis of (1) whether any of petitioner's claims are procedurally defaulted, (2) the merits of any of petitioner's claims that are not procedurally defaulted, and (3) any other issues deemed appropriate.

BY THE COURT:

/s/ Hon. Jan E. DuBois
JAN E. DUBOIS, J.